



STATUTORY INSTRUMENTS

S.I. No. 198 of 2008

WIRELESS TELEGRAPHY (DIGITAL TERRESTRIAL TELEVISION
LICENCE) REGULATIONS, 2008

(Prn. A8/0836)

WIRELESS TELEGRAPHY (DIGITAL TERRESTRIAL TELEVISION LICENCE) REGULATIONS, 2008

The Commission for Communications Regulation, in exercise of the powers conferred on it by section 6(1) of the Wireless Telegraphy Act, 1926 (No. 45 of 1926), transferred to it by section 9(1) of the Communications Regulation Act, 2002 (No. 20 of 2002), and with the consent of the Minister for Communications, Energy and Natural Resources pursuant to section 37 of the Communications Regulation Act, 2002, hereby makes the following regulations:

Citation

1. These Regulations may be cited as the Wireless Telegraphy (Digital Terrestrial Television Licence) Regulations, 2008

Interpretation

2. (1) In these Regulations, except where the context otherwise requires—

“Authorisation Regulations” means the European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations, 2003 (S.I. No. 306 of 2003);

“Broadcast” has the same meaning as in the Wireless Telegraphy Acts, 1926 to 1988;

“Broadcasting station” has the same meaning as in the Wireless Telegraphy Acts, 1926 to 1988;

“Commission” means the Commission for Communications Regulation.

“Digital terrestrial television system” means a system used for the transmission of a modulated data stream containing digital multiplexes in the broadcasting bands III, IV, and V and intended for direct reception by the general public;

“Framework Regulations” means the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2003 (S.I. No. 307 of 2003)

“Harmful interference” means interference which endangers the functioning of a radionavigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a lawfully operating radiocommunications service;

“International Telecommunication Convention” means the convention signed at Geneva on the 22nd day of December 1992 and the Radio Regulations and additional Radio Regulations in force thereunder, and includes any convention

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 24th June, 2008.

and Regulations which may from time to time be in force in substitution thereof, or in amendment thereof;

“Licence” means a licence issued to the Broadcasting Commission of Ireland, pursuant to these Regulations and to section 5 of the Broadcasting (Amendment) Act, 2007;

“Licensee” means the Broadcasting Commission of Ireland;

“Multiplex” means an electronic system which combines programme material and related and other data in a digital form and the transmission of that material and data so combined by means of wireless telegraphy directly or indirectly for reception by the general public;

“Wireless telegraphy” and “apparatus for wireless telegraphy” have the same meaning in the Wireless Telegraphy Acts, 1926 to 1988.

(2) In these Regulations—

- (a) a reference to an enactment or regulation shall be construed as a reference to the enactment or regulation as amended or extended by or under any subsequent enactment or regulation;
- (b) a reference to a Regulation or a Schedule is to a Regulation of, or a Schedule to, these Regulations, unless it is indicated that reference to some other enactment is intended;
- (c) a reference to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended; and
- (d) a reference to a Directive of the European Parliament and Council shall be construed as a reference to the Directive as amended or extended by any subsequent Directive;
- (e) a word or expression which is used in these Regulations and which is also used in the Framework Regulations has, unless the context otherwise requires, the same meaning in these Regulations that it has in the Framework Regulations;
- (f) a word or expression which is used in these Regulations and which is also used in the Authorisation Regulations has, unless the context otherwise requires, the same meaning in these Regulations that it has in the Authorisation Regulations.

(3) The Interpretation Act, 2005 applies to these Regulations.

Licences to which these Regulations apply

3. These regulations apply to Licences to:

establish, maintain, and operate a multiplex for a digital terrestrial television system and associated broadcasting stations, as described in the Schedule in Part II of such Licences, at such places and in accordance with such provisions as shall be set out in Part V of such Licences and not otherwise save with the written consent of the Commission;

Application for Licences and Form of Applications and Licences

4. (1) An application for a Licence shall be made to the Commission and shall be in writing in such form as may be determined by the Commission.

(2) A person who makes an application under paragraph (1) of this Regulation shall furnish to the Commission such information as the Commission may reasonably require for the purpose of its functions under these Regulations and the Authorisation Regulations and if a person without reasonable cause fails to furnish such information the Commission may refuse to grant a Licence to that person.

(3) A Licence shall be in the form specified in the Schedule to these Regulations or such other form as the Commission may determine from time to time.

Duration of Licence

5. A Licence shall come into effect on its date of issue, and, without prejudice to the right of the Commission to revoke or suspend the Licence in the case of non-compliance with the provisions of the Licence, it shall be valid and remain in effect until the termination date set out in the Licence, whereupon it shall expire.

Breaches of Licence

6. (1) Where the Commission finds that a Licensee is in breach of one or more of the conditions of its Licence, the Commission shall notify the Licensee of its findings and allow the Licensee one of the following time periods in which to make representations to the Commission or remedy the breach:

- (a) one month after notification; or
- (b) such shorter period as may be agreed with the Licensee or stipulated by the Commission in the case of repeated breaches; or
- (c) such longer period as may be determined by the Commission.

(2) The Commission may publish, in such manner as it thinks fit, any notification given by it under this Regulation subject to the protection of any information which the Commission considers confidential.

Sanctions

7. (1) Where, at the end of any time period referred to in Regulation 6(1), the Commission is still of the opinion that the notified Licensee is in breach of one or more of the conditions of its Licence, then the Commission may revoke or suspend the Licence, or reduce the geographical coverage area of the Licence, as appropriate.

(2) Prior to any such revocation, suspension, or reduction of the geographical coverage area of a Licence, the Commission shall serve notice on the Licensee specifying the reason for such sanction and shall give the Licensee reasonable opportunity to make representations.

(3) Where a Licence has been suspended or revoked or the geographical coverage area of a Licence has been reduced, no reduction shall be made in the amount of the Licence fee payable.

Public Safety

8. (1) If the Commission:

- (a) is satisfied that the use of a licensed multiplex for a digital terrestrial television system and its associated broadcasting stations, or any part thereof, is causing or represents an immediate and serious threat to the safety, security or health of the general public, and
- (b) serves on the relevant Licensee an interim notice requiring that the use of such multiplex for a digital terrestrial television system and associated broadcasting stations, or part thereof as may be specified in such notice, cease forthwith or on or before such date and time as may be specified;

then that Licensee shall cease to use the multiplex for a digital terrestrial television system and associated broadcasting stations, or part thereof as may be specified, unless and until such interim notice has been withdrawn by the Commission.

(2) Following the issuing of an interim notice under Regulation 8(1), the Commission shall give the Licensee a reasonable opportunity to make representations and to propose remedies.

(3) The Commission, having taken into account any representations or proposed remedies made by the Licensee under Regulation 8(2), may take such measures as are necessary to ensure that any threat, as described in Regulation 8(1) is prevented, which may include amending the conditions of the Licence, or revoking or suspending the Licence.

Fees

9. Licence fees shall be payable in accordance with the terms of the Broadcasting Amendment Act (Digital Terrestrial Television Licence Fees) Regulations, 2007.

Conditions of Licence

10. It shall be a condition of a Licence that:

(1) the Licensee shall make payment of the applicable Licence fees in accordance with Regulation 9;

(2) the Licensee shall comply with any directions, in writing, given to it by the Commission in relation to the tolerance on characteristic frequencies and the radiation of spurious emissions, or in relation to any other aspect of the technical operation of the licensed multiplex for a digital terrestrial television system and associated broadcasting stations;

(3) the Licensee shall furnish to the Commission such information and reports relating to the operation of the licensed multiplex for a digital terrestrial television system and associated broadcasting stations, as the Commission may request, in writing, from time to time;

(4) the establishment, maintenance and operation of the multiplexes for a digital terrestrial television system and associated broadcasting stations shall be in accordance with the conditions set out in Part 1 of the Licence;

(5) the Licensee shall ensure that the licensed multiplex for a digital terrestrial television system and associated broadcasting stations or any part thereof is installed, maintained and operated in such a manner as to not cause harmful interference;

(6) in respect of any apparatus that forms part of a licensed multiplex for a digital terrestrial television system and associated broadcasting stations, the Licensee shall comply with any radiation emission standards adopted and published by the International Commission for Non-Ionising Radiation Protection (“ICNIRP”) or its successors from time to time, and with any radiation emission standards specified by national and EC law. The Licensee shall ensure that such apparatus is not installed or operated at a location or in such a manner as to cause the aggregate of non-ionising radiation emissions to exceed the limits specified by the guidelines published by ICNIRP;

(7) any licensed multiplex for a digital terrestrial television system and associated broadcasting stations, shall at all times be operated by persons properly authorised by the Licensee and all reasonable steps shall be taken to ensure that access to the broadcasting stations associated with the multiplexes cannot be obtained by unauthorised persons at any time;

(8) the Licensee shall not:

(a) operate any multiplex for a digital terrestrial television system and associated broadcasting stations without the Commission’s specific approval in writing in respect of:

(i) characteristic frequency;

(ii) name and geographical co-ordinates of broadcasting stations;

- (iii) effective radiated power;
 - (iv) antenna characteristics, and,
 - (v) antenna height.
- (b) without the prior consent in writing of the Commission (which shall not be unreasonably withheld), assign a Licence, or any or all of the benefits of a Licence. Any consent to assign a Licence that is granted by the Commission under this paragraph may be subject to such further conditions as the Commission considers appropriate in the circumstances. Any party to whom a Licence, or any or all of the benefits of a Licence, is assigned, shall be subject to the full provisions of these Regulations and to the full conditions of the Licence; and

(9) the provisions of the International Telecommunication Convention, and of any international convention or international agreement relating to the use of frequencies to which the State may be, or may become, a party to during the continuance of the Licence, shall be complied with.

Other authorisations and responsibilities

11. Nothing in these Regulations shall absolve a Licensee from obtaining all approvals, consents, licences, permissions and authorisations required to design, construct, install, work and put in place the multiplexes for a digital terrestrial television system and any associated broadcasting stations.

Variation of Licence

12. The Commission may amend, or vary, the terms of a Licence following such public consultation as is deemed appropriate by the Commission at any time and the Licensee shall be given reasonable opportunity to make representations regarding the proposed amendment or variation and the Commission shall consider these representations in making any variation.

SCHEDULE

WIRELESS TELEGRAPHY ACT, 1926

DIGITAL TERRESTRIAL TELEVISION LICENCE

WHEREAS the Broadcasting Commission of Ireland (“BCI”) is empowered to arrange for the establishment, maintenance and operation of multiplexes for Digital Terrestrial Television Systems and associated broadcasting stations, under Licences issued to it by the Commission for Communications Regulation (“the Commission”) and in accordance with any conditions attached by the Commission to such Licences.

The Commission, in exercise of the powers conferred on it by section 5 of the Wireless Telegraphy Act, 1926 (No. 45 of 1926), transferred to it by section 9(1) of the Communications Regulation Act, 2002 (No. 20 of 2002), and in accordance with Section 5 of the Broadcasting (Amendment) Act 2007, hereby grants to the BCI the Licence set out hereunder:

1. Licence Conditions

(1) For the purpose of carrying out the functions authorised by the Broadcasting (Amendment) Act 2007 the BCI is hereby licensed to establish, maintain and operate a multiplex for a digital terrestrial television system and associated broadcasting stations, as described in the Schedule in Part II of this Licence, in accordance with the provisions set out in Part V of this Licence and not otherwise save with the written consent of the Commission,

(2) Failure to carry out the activities listed in (1) above may result in the Commission imposing sanctions.

(3) Nothing in this Licence shall serve to preclude the Licensee from entering into any contracts, agreements and arrangements incidental or conducive to carrying out the activities listed in (1) above.

(4) The Licensee shall not operate any multiplex for a digital terrestrial television system and associated broadcasting stations without the Commission's specific approval in writing in respect of:

- (i) characteristic frequency,
- (ii) name and geographical co-ordinates of broadcasting stations,
- (iii) effective radiated power,
- (iv) antenna characteristics, and
- (v) antenna height.

(5) The Licensee shall comply with any directions in writing given to it by the Commission in relation to the tolerance on characteristic frequencies and the radiation of spurious emissions or in relation, in any other respect, to the technical operation of the multiplex for a digital terrestrial television system and associated broadcasting stations mentioned in the preceding paragraphs.

(6) The Licensee shall furnish to Commission such information and reports relating to the operation of the multiplex for a digital terrestrial television system and associated broadcasting stations as the Commission may, from time to time, by notice in writing served on the Licensee.

(7) The establishment, maintenance and operation of the multiplex for a digital terrestrial television system and associated broadcasting stations, as licensed hereunder, shall be in accordance with the conditions set out in Part I of this Licence.

(8) the Licensee shall ensure that the licensed multiplex for a digital terrestrial television system and associated broadcasting stations or any part thereof is installed, maintained and operated in such a manner as to not cause harmful interference.

(9) In respect of any apparatus that forms part of the multiplex for a digital terrestrial television system and associated broadcasting stations, the Licensee shall comply with any radiation emission standards adopted and published by the International Commission for Non-Ionising Radiation Protection (“ICNIRP”) or its successors from time to time; and with any other radiation emission standards specified by national and EC law. The Licensee shall ensure that such apparatus is not installed or operated at a location in such a manner as to cause the aggregate of non-ionising radiation emissions to exceed the limits specified by the guidelines published by ICNIRP.

(10) Any licensed multiplex for a digital terrestrial television system and associated broadcasting stations, shall at all times be operated by persons properly authorised by the Licensee and all reasonable steps shall be taken to ensure that access to the broadcasting stations associated with the multiplex cannot be obtained by unauthorised persons at any time.

2. Licence Fees

(1) The annual licence fee payable to the Commission shall in the period up to 1 July 2012 be €57,000. The fee shall first be payable to the Commission on the date the Licence is granted, and shall be payable on that same date every year thereafter for the term of the Licence.

(2) For the remainder of the licence period after 1 July 2012, the Licensee shall pay to the Commission an annual licence fee of €114,000, indexed to reflect the rate of inflation annually using the Consumer Price Index. The first indexation shall take place with effect from 1 July 2013 based on the increase in the Consumer Price Index in the period 1 July 2012 to 30 June 2013.

(3) Fees shall be paid to the Commission by way of banker's draft or such other means and on such terms (including terms as to the place of payment) as the Commission may deem acceptable. Where the date of payment falls on a Saturday, a Sunday or a public holiday payment shall be made on or before the last working day before the date of payment.

(4) An amount payable by a Licensee may be recovered by the Commission as a simple contract debt in any court of competent jurisdiction.

(5) If a Licence is withdrawn, suspended or revoked, then the Licensee shall not be entitled to be repaid any part of the fee paid by the Licensee but shall still be liable to pay any sums (including interest) that are outstanding.

(6) Where payment by the Licensee is not made in due time, then interest shall be payable by the Licensee at the rate per annum standing specified for the time being in section 26 of the Debtors (Ireland) Act, 1840 (1840 c.105), on the fee or part thereof in respect of the period between the date when such fee or part fell due and the date of payment of such fee or part.

3. Breach of Licence

(1) Where the Commission finds that the Licensee has not complied with one or more of the conditions of the Licence conferred hereunder, the Commission shall notify the Licensee of those findings and give the Licensee a reasonable opportunity to state its views or remedy any breaches within:

- (a) one month after notification,
- (b) a shorter period agreed by the Licensee or stipulated by the Commission in the case of repeated breaches, or
- (c) a longer period decided by the Commission.

(2) The Commission may publish, in such manner as it thinks fit, any notification given by it under this Condition subject to the protection of the confidentiality of any information which the Commission considers confidential.

Where, at the end of the period referred to in par. (1), the Commission is of the opinion that the Licensee has not complied with the condition, it shall take appropriate and proportionate measures aimed at ensuring compliance.

4. Sanctions

(1) The Commission may, in cases of serious and repeated breaches of the conditions of the Licence, revoke, suspend, withdraw or reduce the geographical coverage area of the Licence, where measures aimed at ensuring compliance as referred to in section 3 above have failed.

(2) Prior to any such revocation, suspension, withdrawal or reduction of the geographical coverage area, the Commission shall serve notice on the Licensee specifying the reason for such sanction and shall give the Licensee a reasonable opportunity to make representations about the proposed revocation, suspension, withdrawal or reduction.

(3) Where the geographical coverage area of a Licence has been reduced, no reduction will be made in the amount of the licence fee payable.

5. Public Safety

(1) If the Commission:

- (a) is satisfied that the use of the multiplex for a digital terrestrial television system and associated broadcasting stations, or any part thereof, is causing or represents an immediate and serious threat to the safety, security or health of the general public, and
- (b) serves on the relevant Licensee an interim notice requiring that the use of such multiplex for a digital terrestrial television system and associated broadcasting stations, or part thereof as may be specified

in such notice, cease forthwith or on or before such date and time as may be so specified;

Then that Licensee shall cease to use the multiplex for a digital terrestrial television system and associated broadcasting stations or part thereof as may be specified, unless and until such interim notice has been withdrawn by the Commission.

- (2) Following the issuing of an interim notice, the Commission shall give the Licensee a reasonable opportunity to make representations about the interim notice and to propose any remedies.
- (3) The Commission, having taken into account any such representations or proposed remedies made by the Licensee, may take such measures as are necessary to ensure that any threat mentioned in subparagraph (1) (a) is prevented, which may include amending the conditions of the Licence, or revoking or suspending the Licence.

6. Restrictions on the Licensee

The Licensee shall not, without the prior consent in writing of the Commission (which will not be unreasonably withheld), assign the Licence or any of the benefits of a Licence. Any consent to assign a Licence that is granted by the Commission may be subject to such further conditions as the Commission considers appropriate in the circumstances.

Any party to whom a Licence or any or all of the benefits of a Licence is assigned by the Licensee, shall be subject to the full provisions of the Regulations and to the full conditions of the Licence.

The provisions of the International Telecommunication Convention, and of any international convention or international agreement relating to the use of frequencies to which the State may be, or may become, a party during the continuance of this Licence, shall be complied with.

7. Other authorisations and responsibilities

Nothing in this Licence shall absolve the Licensee from obtaining all approvals, consents, licences, permissions and authorisations required to design, construct, install, work and put in place the multiplex for a digital terrestrial television system and any associated broadcasting stations.

8. Variation of licence

The Commission may amend, or vary, the terms of the Licence, following such public consultation as is deemed appropriate by Commission, at any time and the Licensee shall be given reasonable opportunity to make representations regarding the proposed amendment or variation and the Commission shall consider those representations in making any variation.

9. Licence Duration

This Licence shall operate from (date) and, without prejudice to the right of the Commission to revoke or suspend the Licence in the case of non-compliance with the provisions of the Licence by the Licensee, shall be valid and continue in force until (date) and shall then expire.

10. Definitions

In this Licence:

a reference to a Schedule is to a Schedule to this Licence, unless it is indicated that reference to some enactment is intended;

a reference to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended;

a reference to an enactment shall be construed as a reference to the enactment as amended or extended by or under any subsequent enactment.

(1) In this Licence, except where the subject or context requires otherwise, the following expressions have the meanings hereby assigned to them, that is to say:

“broadcasting station” has the same meaning as in the Wireless Telegraphy Acts, 1926-1988;

“Commission” means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act, 2002;

“Digital Terrestrial Television System” means a system used for the transmission of a modulated data stream containing Digital Multiplexes in the broadcasting bands III, IV and V intended for direct reception by the general public;

“DTT” means Digital Terrestrial Television;

“harmful interference” means interference which endangers the functioning of a radionavigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with the applicable European Community or national regulations;

“International Telecommunication Convention” means the International Telecommunication Convention signed at Geneva on the 22nd day of December 1992 and the Radio Regulations and additional Radio Regulations in force thereunder, and includes any Convention and Regulations which may from time to time be in force in substitution therefore, or in amendment thereof;

“Licensee” means the holder of the Licence, in this case the BCI;

“multiplex” means an electronic system which combines programme material and related other data in a digital form and the transmission of that material and data so combined by means of wireless telegraphy directly or indirectly for reception by the general public;

“wireless telegraphy” and “apparatus for wireless telegraphy” have the same meaning as in the Wireless Telegraphy Acts, 1926 to 1988.

(2) A word or expression which is used in this Licence and which is also used in the European Communities (Electronic Communications Networks and Services)(Framework) Regulations 2003 has, unless the context otherwise requires, the same meaning in this Licence that it has in the European Communities (Electronic Communications Networks and Services)(Framework) Regulations 2003.

(3) A word or expression which is used in this Licence and which is also used in the European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations 2003 has, unless the context otherwise requires, the same meaning in this Licence that it has in the European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations 2003.

PARTS

PART I — Technical Conditions

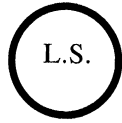
PART II — List of transmitter sites

PART III — Licensed System *Digital Terrestrial Television System*

PART IV — Licence Area *National Licence*

PART V — Rollout

PART VI — Licensee’s Address



GIVEN under the official seal of the Commission for
Communications Regulation this
19 June 2008

JOHN DOHERTY

On behalf of the Commission of Communications Regulation

The Minister for Communications, Energy and Natural Resources consents to
the making of the foregoing Regulations.



GIVEN under the Official Seal of the Minister for Communications,
Energy and Natural Resources this
19 June 2008

EAMON RYAN T.D.

Minister for Communications, Energy and Natural Resources

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These regulations apply to Licences to establish, maintain, and operate multiplexes for A digital terrestrial television system and associated broadcasting stations,, in accordance with the provisions set out in the Licence and not otherwise, save with the written consent of the Commission.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
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nó trí aon díoltóir leabhar.

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